

## MINUTES

### **WARRICK COUNTY AREA PLAN COMMISSION**

Regular meeting held in Commissioners Meeting Room,  
Third Floor, Court House,  
Boonville, IN  
Monday, March 14, 2011, 6:00 P.M.

**MEMBERS PRESENT:** Guy Gentry, President; Larry Willis, Vice President; Mike Moesner, Marlin Weisheit, Judy Writsel, Phil Baxter and Brad Overton.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director and Susan Hilgeman, Staff.

**MEMBERS ABSENT:** None.

**PLEDGE OF ALLEGIANCE:** A moment of silence was given followed by the Pledge of Allegiance.

**MINUTES:** Upon a motion by Larry Willis and seconded by Mike Moesner, the Minutes of the last regular meeting held February 14, 2011 were approved as circulated.

The President explained the Rules of Procedure.

### **REZONING PETITION:**

**PC-R-11-03 – Petition of Barrington Development Corp. by Bruce Miller, Pres.** To rezone 3.3359 acres located on the south side of Ferstel Road (S 600) approximately 0 feet West of the intersection formed by Ferstel Road and Vanada Road (W 550) being Lots 72 and 73 in Lexington Subdivision. Ohio Twp. from “R-2B” Multi-Family Apartment Zoning District to “PUD” Planned Unit Development Zoning District with “R-2B” Multi-Family Dwelling classification with a Primary Plat. *Advertised in the Boonville Standard on March 3, 2011.*

Present was Bruce Miller, President of Barrington Development Corp.

Mrs. Rector asked if the Board would like to hear both the rezoning as well as the primary plat at the same time.

The consensus of the Board was yes.

### **SUBDIVISIONS FOR PRIMARY PLAT APPROVAL:**

**PP-11-04 Village of Lexington** – by Barrington Development Group, by Bruce Miller, Pres. Located on the South side of Ferstel Road (S 600) approximately 0 feet West of the intersection formed by Ferstel Road and Vanada Road (W 550) being Lots 72 and 73 in Lexington Subdivision. Ohio Twp. *Advertised in the Boonville Standard on March 3, 2011.*

Present was Bruce Miller, President of Barrington Development Corp.

The President called for a staff report on the rezoning first.

Mrs. Rector stated all return receipts from certified mail of notice of this meeting have been submitted. She stated the applicant is requesting to rezone 3.34 acres from R-2B Multi-Family Apartment zoning to PUD, Planned Unit Development zoning with R-2B classification. She stated it is lots 72 and 73 in Lexington Subdivision. She then stated the property was rezoned in January of 2005 from Agriculture, Highway Commercial, and Flood Plain to R-2B to allow a PRUD which is what the Zoning Ordinance required at that time. She stated they were proposing attached condos and due to the current economy and housing trends the applicant is now proposing single family dwellings. She stated the PUD zoning is to allow a relaxation of the front yard setbacks from 25' to 8', the side yard from 6' to 4', and to allow a private street. She stated the lot sizes are from .1214 to .1905 acres and the Comprehensive Plan shows the area to be moderate to high density residential. She stated the existing land use is Lexington Subdivision. She stated to the North and East is Agriculture with one residence and to the South and West is zoned R-2B and vacant. She stated there is some zone A-10 on 14 of the proposed 20 lots, which means the elevation has been established and they are in the process of having a letter of map amendment done on the property to have it removed from the flood plain.

Mrs. Rector stated the Primary Plat filed is only for 10 lots filed on Whitegate Court at this time. She stated access will be off Ferstel Road and will have a private internal street to the building lots. She stated the stated use is planned unit development for single family dwellings only. She stated it is in compliance with that zoning. She stated they are requesting no improvements to Vanada Road and Ferstel Road, which was approved today by the County Commissioners and the interior street, Whitegate Court, is private. She stated the applicant applied for a Commercial Driveway off of Ferstel Road and has been approved by the County Engineer. She stated Drainage Plans were approved by the Drainage Board. She stated they have a letter from Newburgh for

Sewer Capacity and from Indiana American for Water. She stated the plat is in technical conformity to the Subdivision Control Ordinance and any approval will need to be conditioned upon receiving approval of the rezoning before the secondary plat could be approved.

The Chairman called for questions by the Board.

Mr. Gentry stated in site review Mr. Miller gave a very good explanation of why he was going to do this. He then asked if he could just give a little explanation of this.

Mr. Miller stated the original master plan for lots 75, 74, 73, and 72, were platted pieces of property ultimately for multifamily condominium. He then stated each one of those, especially 72, was like the rest and would have 16 units on it. He stated the reduction has taken it down from 16 to 10 individual homes. He stated so the property will be deeded like any other subdivision, but with smaller cottage type homes. He stated this is primarily from the economy that has changed on them, where the condos would never sell, and that is why they changed it to the individual houses.

There being no further questions by the Board the President called for remonstrators.

Jeff Gill stated he lives right across the street and is the only one. He stated they got this in the mail and they have talked to Bruce, but anybody that comes by and sees the Brownstones that are there now says, "Wow, look at that thing. It doesn't belong." He stated if these were on the west side of Newburgh, he thinks they would have no problem selling them. He stated this far out, there is nothing around there and he knows the economy is bad and all that, but they just don't fit. He stated so since they can't move this product, they are going to take down these homes to 1700 square foot cottages and stick them as close as they can together and hope they sell them. He stated he doesn't know if it will bring down the price of their home or not, but they have a 2475 square foot home and now they are going to have 1700 square foot cottages across from them. He stated they are going to be so close to each other there will not be room to even have a tree; a tree to him is something that grows up not some little dwarf thing that hangs down. He then stated the way the homes are positioned on the plat is when they walk out their front door they will look at the rear of these cottages. He stated who want to look at the rear of someone's house when they walk out their own front door. He stated Mr. Miller did talk to him about placing evergreens up when they start building them; he will put some on the last two and around the curve. He stated he thanks him for doing that but it is still an ever green, how long will it take for it to grown and what happens if another ice storm comes through. He stated this is a beautiful piece of property and they could have put some beautiful homes on it and

made it more habitable and environment friendly instead of cramming homes in on top of each other. He stated it is just not a good idea in this area, the west side of Newburgh sure, but not here.

The President asked if Mr. Miller had anything he would like to rebut.

Mr. Miller stated no.

The President called for questions by the Board.

Mrs. Writsel asked as Mr. Miller finishes out the subdivision over the years did he plan on continuing to build houses of this size or would then be of a different size.

Mr. Miller stated lot 72 and lot 73, the houses will be in the 1700 to 1900 square foot range, in the main body of the subdivision, those are running 2300 and 2600 square feet.

Mr. Writsel asked if they will continue to be that size.

Mr. Miller stated yes.

Mr. Willis asked how long the Gills have lived on the property across the street.

Mr. Gill stated they have lived there for 10 years and he grew up just down the street.

The President called for a motion on PC-R-11-03.

Marlin Weisheit made a motion to recommend approval to the County Commissioners of PC-R-11-03 from R-2B" Multi-Family Apartment Zoning District to "PUD" Planned Unit Development Zoning District with "R-2B" Multi-Family Dwelling classification. The motion was seconded by Judy Writsel, with Phil Baxter, Guy Gentry, Marlin Weisheit, Larry Willis, Judy Writsel voting for and Mike Moesner and Brad Overton, voting against, motion carried.

The President called for a motion on PP-11-04.

Marlin Weisheit made a motion to find PP-11-04 Village of Lexington in technical conformity with the Subdivision Control Ordinance and to approve it. The motion was seconded by Judy Writsel with Phil Baxter, Guy Gentry, Marlin Weisheit, Larry Willis, Judy Writsel voting for and Mike Moesner and Brad Overton, voting against, motion carried.

**PP-11-03 Eli Place Subdivision** -by Applicant: Newburgh Property Management, LLC by Thomas C. Smith, member. Owner: K R Development Co. by Kenneth D. Davis. MD Partner, Located on the south side of Stahl Road (S 375) approximately 200 feet West of the intersection formed by Stahl Road and Clover Drive. Ohio Twp. *(Complete legal on file) Advertised in the Boonville Standard on March 3, 2011.*

Present were Thomas Smith, Member of Newburgh Property Management, LLC; and Ross Nixon, with American Structure Point, Engineer.

Mrs. Rector stated have all return receipts from certified mail of notice of this meeting have been submitted except from Wade Farr and David Derudder; however we have the white pay stubs and they were mailed to the correct address and mailed in adequate time. She stated the zoning is C-4 and the West portion was zoned in 1988 and the East portion was in January of this year. She stated there is no flood plain on the property and this is a proposed two lot commercial subdivision. She stated lot 1 is unknown use at this time and lot 2 is a proposed assisted living nursing facility with 24 patio homes. She stated the street plans were approved by the County Commissioners today and the drainage plans were also approved by the Drainage Board. She stated they have a capacity letter from Newburgh Sewer and from Evansville Water. She stated the plat is in technical conformity with the Subdivision Control Ordinance.

The President asked if the applicant had anything to add to the staff report.

Mr. Smith stated no.

The President then called for questions by the Board.

Mr. Moesner asked if there were three separate building areas, the skilled nursing, assisting living, and the patio homes.

Mr. Smith stated that was correct.

Mr. Gentry asked if that was all one building.

Mr. Smith stated yes the skilled nursing and the assisted living are all one building.

Mr. Willis asked if they would be building all 24 patio homes at one time or in phases.

Mr. Smith stated they will be staged in. He stated they will start with the six-plex and then they will pre-lease, so there should be continuous construction for approximately 18 months. He stated that is the way they did it in Plainfield and so they will probably fill the first before beginning construction on second.

Mr. Willis asked if they subcontract the construction out to general contractors to build the homes.

Mr. Smith stated actually, they have a general contractor that will build them.

Mr. Willis asked if they were going to use local people for the subcontracting.

Mr. Smith stated that would be preferable; it is tough to bring people down and they have already started sourcing local people. He stated they will bring down the foreman and run most of the site work locally.

There being no remonstrators and no further questions by the Board, the President called for a motion.

Mike Moesner made a motion to find PP-11-03 Eli Place in technical conformity with the Subdivision Control Ordinance and to approve it. The motion was seconded by Larry Willis and unanimously carried.

## **OTHER BUSINESS:**

### **1. Formal Complaint – Cathy Emerson – 110 E 1<sup>st</sup> Street, Lynnville**

Present was Marcus Emerson, son of Cathy Emerson.

The President called for a staff report.

Mrs. Rector stated there was a complaint file in November 2010 that states there are 5 vehicles on the property, trash and junk throughout the property. She stated the Zoning Inspector went out on December 8<sup>th</sup> for the first time and found the property to be in violation with several junk cars in driveway and large piles of garbage and junk on several areas of the property. She stated she gave Mrs. Emerson 60 days to clean up the property on December 20<sup>th</sup>. She then stated on February 23<sup>rd</sup>, the Zoning Inspector did an inspection stating that there are still several cars on the lot and junk all over the property. She stated since she did not get it cleaned up in the

60 days she needed to appear before the Board this evening. She stated also in the packet are pictures that were taken on Feb. 27<sup>th</sup>.

Mr. Emerson stated his letter stated they were taken on the 23<sup>rd</sup>.

Mrs. Rector stated there are pictures that were taken by the person that filed the complaint on the 27<sup>th</sup>.

Mr. Emerson stated his letter stated they were taken by the Zoning Inspection.

Mrs. Rector stated today they got pictures from the person that filed the complaint and she stated that she took them on February 27<sup>th</sup> and she brought them to the office today. She stated she wanted to attend but was not able to do so this evening but she would be able to be here next month. She stated so there are pictures taken on February 23<sup>rd</sup> and on February 27<sup>th</sup>. She then asked Mr. Emerson since he was not the owner where Cathy was and who she was to him.

Mr. Emerson stated Cathy is his mother and is currently up North with her mother who has been hospitalized.

Mrs. Rector stated so you are not the property owner.

Mr. Emerson stated they are in the process of transferring the loan into his name, but right now it is in his mother's name.

Mrs. Rector stated his mother is the one responsible for all this not him.

Mr. Emerson stated he is the one that resides on the property.

Mrs. Rector stated the property is in her name and our attorney can explain that to him.

Mr. Emerson stated he understands that.

Mr. Gentry asked who owns all the vehicles.

Mr. Emerson stated all the vehicles are in his name. He stated there is only one vehicle that in the pictures he took today. He stated there are only two vehicles that should be even possibly be in question. He stated one does not have a plate on it, and it is the one furthest back toward his neighbor, Doris Horn, who is the one he

believes filed the complaint. He stated there is another vehicle on the adjacent piece of property next to the little white building, which is one of their daily drives that caught fire a few months back.

Mr. Gentry stated there is a mini-van.

Mr. Emerson stated the mini-van is his family's daily driver and he is waiting on his taxes to get a part for it which cost about a thousand dollars for it. He stated that is a legal licensed vehicle.

Mr. Gentry asked if it runs.

Mr. Emerson stated it will start but he refuses to drive it until he gets the parts he needs.

Mr. Gentry stated the vehicle with the tarp is not licensed.

Mr. Emerson stated that is correct. He stated it is a family vehicle; it is a 1973 Impala with 60,000 miles. He stated for the past 20 years they have always kept at least one vehicle sitting there because their neighbors, Chris and Doris Horn. He stated there is an alley way right there and they park in that public alley way as their private parking. He stated he has 5 children and 4 of them grew up there and they have lived there since 1991. He stated they have always kept a vehicle or large pile of railroad tiles there because people come down the alley and because it is blocked by their neighbors vehicles on a daily constant basis they will drive through their driveway or their yard to get out.

Mr. Gentry asked if that vehicle runs.

Mr. Emerson stated yes it will run it is just not plated.

Mr. Gentry stated he thinks he can get an antique plate for one that old that would be a onetime deal, he believes that is how that works, but he is not one hundred percent sure. He then asked about the Nova.

Mr. Emerson stated the Nova does not belong to him, it belongs to his best friend and it does run and is licensed. He stated that is what he is driving while the van is broke down. He stated he had given that car back and he has borrowed another van.



Mr. Gentry asked what about the thing that looks like a jeep.

Mr. Emerson stated that is a 1961 Willy's Jeep 4x4, it is more of a recreational vehicle. He stated it does have a legal plate on it and it does run.

Mr. Gentry then asked about the white SUV.

Mr. Emerson stated that is the white van he just got so he could give the Nova back to his friend. He stated that is what he is driving currently.

Mr. Gentry then asked once all the borrowed vehicles are returned back, that leaves 2 mini vans, a jeep, and the Impala.

Mrs. Rector stated so that is 4, one that is not licensed, the Impala.

Mr. Emerson stated there is one more that is not in the pictures that was his daily driver up until a few months back until the wiring caught fire. He stated he asked the sheriff if it was okay to set it there since it was zoned commercial and he said it would not be a problem for the time being. He stated the only reason it has not been moved from that spot is mostly because of how soft the ground is because it is on a downhill slope. He stated if they would see pictures of his yard today, his whole bottom yard is flooded from the public ditch.

Mr. Gentry asked what he was going to do with it.

Mr. Emerson stated it is going to go into the garage to be stripped down for what few pieces he can salvage off of it and the rest will be gotten rid of.

Mr. Gentry stated there are some piles with a grill and bed mattresses.

Mr. Emerson stated he has pictures he took after Feb. 23<sup>rd</sup>, and there are still a few tires and things he still needs to haul off and he knows that. He stated the reason it is taken so long to get the property cleaned up, besides the weather, is he has 5 kids and one is a special needs kid. He stated for the past month they have been going back and forth to Riley's Hospital and she is going to have surgery that she may not make it through. He stated he took these pictures about an hour ago, or about 4 o'clock.

Mr. Emerson then submitted the pictures.

Mr. Emerson stated there are still his kid's bicycles and toys. He stated in the front he has a couple four wheelers and a three wheeler that are his and the kids. He stated all this stuff would be inside the garage but he got married and moved away a few years ago and when he came back to take over the property from his mother, the property had gone down a lot. He stated that he lived there for 15, 16 years and he maintained the property and after his dad left the property has gotten over grown. He stated so everything that was left has been put in the garage which is about 20 years of stuff. He stated once the weather breaks he is going to start cleaning it out, but he has to wait until he can get everyone together.

Mr. Gentry asked if he had filed his taxes yet.

Mr. Emerson stated he just got his 1099 from unemployment; apparently it got miss mailed the first time.

Mrs. Writsel stated she thinks she can add a bit to this since she is on the Lynnville Town Council. She stated they have been working on getting several properties around the town cleaned up and she would like to say that there has been major improvement in this area. She stated the area that Mrs. Horn was most concerned with was a lot of stuff that was over along the alley and the weeds had grown up.

Mr. Emerson stated there are only two crates left and they are actually fire wood that needs to be moved around to where the other wood is .

Mrs. Writsel stated there has been huge amount of cleaning done on this property.

Mr. Gentry asked weather permitting, how long it would take him to clean up the property.

Mr. Emerson stated it would be easier for them if they would come out and clean out the garage, but he cannot promise them that with his family. He then asked if there was anything that says he could not store his kid's bikes outside, or his four-wheelers by the garage, or the kid's toys in the yard.

Mr. Gentry asked if all the four-wheelers ran.

Mr. Emerson stated there is a frame that needs to be put up and the white one needs some work.

Mr. Gentry stated it would be best if they were put up. He then asked if he could have an auction to get rid of the stuff in the garage.

Mr. Emerson stated he has been told he is not allowed to touch anything in there.

Mr. Willis stated he never answered the question of how long he needs to finish cleaning up the property.

Mr. Emerson asked if the Impala is plated is there any issue of it being parked there. He stated he is not interested in taking his neighbors to court about parking in the alley way, so he can keep people from driving through his yard were his children are playing.

Mrs. Rector stated licensed and operable is what they have to be.

Mr. Emerson stated he thought there was something in the Towns By-laws concerning there being only one or two vehicles on the property was the limit. He then asked if that has been changed to zero.

Attorney Doll stated he cannot answer that, but the County Ordinance states under Junk-Salvage Yard, *"Any land, property, structure, building or combination thereof, where junk is stored or processed. "Junk or salvage" includes, but is not limited to, wrecked or inoperable vehicles, parts of vehicles, scrap iron and other metals, wood, paper, rags, rubber tires, bottles, etc."* He states so if it doesn't run it is a violation.

Mr. Gentry state you also have the tire issue and trash issue.

Mr. Emerson stated that is pretty much cleaned up.

Attorney Doll asked if the blue van runs now.

Mr. Emerson stated it will run but he does not want to drive it.

Attorney Doll stated it looks like the whole front end is gone.

Mr. Emerson stated yes he pulled the whole motor and needs this one part and then he can put the rest of the car together. He stated it is basically the radiator, bumper, and headlights. He stated he has worked on cars his whole life.

Mr. Willis asked if the property owner knows they are in violation.

Mr. Emerson stated yes, she is in very bad health and cannot keep up with the property anymore. He stated his grandmother is in very bad health and that is where she has been since Friday.

Mrs. Rector stated she knows he has 5 children, but there is more than five bicycles there.

Mr. Emerson stated yes there are more than 5. He stated his two oldest each have two bikes a piece and then there are two extras for their friends and cousins. He stated if they are junk he has pitched them out.

Mrs. Rector asked what if he did not get the garage empty?

Mr. Emerson stated the garage will get emptied. He stated he loves his mom to death but it is going to happen and he is going to give his mom an ultimatum, or he is not going to take over the mortgage.

Mr. Willis made a motion to give Cathy Emerson 60 days and the motion was seconded by Judith Writsel.

Mrs. Rector asked if they would make it a date.

Mr. Willis made a motion to give Cathy Emerson 60 day contingent with May 9<sup>th</sup> meeting, inspection to be done 4 days prior on May 5<sup>th</sup>. The motion was seconded by Judith Writsel and unanimously carried.

**2. D & K Tanks Minor Subdivision – Reported by Chandler Post Office multiple businesses on one parcel.**

Mrs. Rector stated the Chandler Postmaster came into the office regarding addresses out on Old Boonville Hwy. She stated there was a minor subdivision on the property that was originally Wagner Seed and now Allen and Brent Holweger have bought the property. She stated there were a lot of existing buildings and it was our understanding that they were going to be used for their construction company. She stated now they are leasing to all these different types of businesses that are not in conjunction with each other and they are not accessory structures with each other.

Mr. Gentry asked if they know what they are.

Mrs. Rector stated one of them is Boat Doctors and is in building D. She stated the rest of that building and building C is a Seed and Chemical Company. She then stated the question is there can only be once principle building on a piece of property and the rest has to be an accessory unless it is a PUD zoning which allows the different types of business and uses. She stated the Post Master does not know how to address these. She stated they wanted to use A, B, C, & D, but it is actually illegal to have all these business out there without going through the subdivision process. She stated they have mail boxes all stuck out there on the Boonville Highway. She stated she would prefer someone with her to go out and verify this and asked where the Board wants to go with it.

Attorney Doll asked if they owned any additional property to this.

Mr. Gentry stated no. He stated they did not buy 10677 Boonville Highway.

Mrs. Rector stated D & K Tanks owns that. She stated the Holweger's owns 10599 Boonville Highway.

Discussion was held on who owns what parcels.

Mrs. Rector stated they are leasing out the buildings.

Attorney Doll stated they are leasing them to a third party, who are in fact operating other businesses.

Mrs. Rector stated correct.

Mr. Willis asked what the zoning was.

Staff stated "M-1" General industrial.

Mr. Moesner asked if that would be different than a strip mall.

Mrs. Rector stated if it was zoned correctly, no, and if it was platted, each building would need to be on its own lot or the "PUD" zoning, which they don't have.

Mr. Gentry asked the two that are being lease are owned by the Holweger's.

Mrs. Rector stated correct.

Mr. Gentry asked if anyone had contacted them.

Mrs. Rector stated no.

Mr. Gentry stated he is going out of town but could go Wednesday or Thursday to take a look. He stated after that he think they need to contact the owners with whatever they find and they need to come into compliance with whatever they find.

Mrs. Rector stated she has no problem with that she just wanted to bring it to the Board. She then stated she and Mr. Gentry would go out there next Wednesday or Thursday and then send them a letter depending upon what they find.

### **3. Zoning Inspections – Current Complaints**

Mrs. Rector stated she wants the Board to be aware that the County is in the process of getting a new Inspector. She stated the current Inspector's last day is the 27<sup>th</sup> of March. She stated currently they have a complaint on Polk Road, Grand River Road, Schneider Road, Ridgeview Avenue, and Jamestown Road. She stated they may have one on South Yankeetown coming in that Commissioner Weisheit called her about the other day, but nothing has been filed yet. She stated she feels like the staff, herself, and Mr. Gentry, can do these inspections until the new Inspector starts. She stated so they will handle them themselves and there are a few that she wants Mr. Gentry to go with her on.

Mr. Gentry asked when the new Inspector would start.

Mr. Weisheit stated he believes in the very near future, he thinks things are going to work out in pretty quickly.

### **4. Cell Phone for Zoning Inspector**

Mrs. Rector stated she does not know all the negotiation going on with the proposed Zoning Inspector but she received a call from Commissioner Williams asking if the Planning Commission could make a contribution to new Inspector in some way. She stated she asked Mr. Williams in what way because they don't have money to pay him a salary or anything. She stated Mr. Williams asked if they could possible play for his cell phone, which would be \$300 to \$400 a year. She stated he would be using a County Phone. She stated she had a County phone and it was \$35 a month but she

never used it so she turned it back in. She stated she told him she did not think it would be a problem since they had been paying for a phone, but she would bring it to the Board.

Mr. Gentry stated he doesn't have a problem with that.

Mr. Willis asked if it was in the budget.

Mrs. Rector stated it can come out of equipment.

Mr. Gentry asked if there were any objections, there being none the consensus was to pay the cell phone bill of the Inspector.

## **5. Definition of a Parcel:**

Attorney Doll stated many of you will recall that they recently made a change in the Subdivision Control Ordinance creating the ability to do something called a parcelization. He then stated if you look in the packet that was given to you tonight on page 11; the section dealing with parcelization. He stated on the pages that follow they talk about subdivisions, majors and minors. He stated for example on page 17, they talk about streets on or adjacent to the tract being subdivided etc., but what they don't have is the definition of is what a parcel or a tract is. He stated the State Zoning Ordinance doesn't have a definition of a parcel or a tract. He stated there is a definition, it is in the real estate transfer statute in Title 32 and it defines a tract meaning an area of land that is under common fee simple ownership and contained within a contiguous border, so it cannot be different spots, and a separately identified parcel for property tax purposes.

Attorney Doll stated Peabody came in with a large chunk of ground that they wanted to do several minor subdivisions on. He stated Peabody's condition was that they had bought these hundreds of acres in several different tracts over decades of years and now they wanted to sell it. He stated their argument was that each tract that they had was a parcel. He stated therefore they were allowed to do 12 minor subdivisions and they could cut it into 4 lots per subdivision, so they could do a 48 lot real estate auction, which is what they were trying to do without having to do a major subdivision. He stated the same issue is existing for a parcelization. He stated he thinks the ordinance has to define what a parcel is. He stated they met with a representative of Peabody and they suggested that they just follow the State's Statute. He stated their answer was no because the State's Statute says and a separately identify parcel for property tax purposes. He stated what they have

found out is that Cypress Mine has a piece of property that they acquired in separate tracts that have been combined for property tax assessment purposes and so if you draw out the tract were they were acquired and then you overlay the property tax boundary, they don't match. He stated what Cypress wanted to do is sell off their office building, carve it off and sell it. He stated they need a definition of a parcel and/or tract so that when they do a minor they know what it is out of etc. He stated they had a meeting with the Auditor and the representative for Peabody was there and the Assessor was there and they tried to get some consensus on what language everybody could live with, and as he understands it they never reached it. He stated unfortunately he had to leave at 2:30 to come to a Drainage Board meeting but then they were going to get back together and see about finding a solution, but it has only been two weeks. He stated this will continue to plague us until they define a parcel. He stated he is not suggesting this is the end all be all. He stated if Peabody asked the Auditor's Office to combine 2 or 3 parcels of land into 1 tax identified parcel that is Peabody's problem because they asked for what they got. He stated they signed a written request to combine A, B, C, and D into a single tax unit. He stated there are reasons why people want to do that, generally because they pay less taxes when they do that. He stated he does not think the people making the decisions on how to lower their property taxes by combining parcels is telling the people leasing the property that hey out of that 1,000 acres you only can have 4 parcels.

Mrs. Rector stated they need a definition because in the office they don't know what to use and the biggest part of the problem is the coal mine because most people don't own that much ground.

Mr. Gentry stated he likes this definition. He stated he has always believed it should be contiguous and it should be by tax assessment. He stated if they want one bill then they have one parcel. He stated and if they want them combined they should have to have a new deed for it.

Mrs. Rector stated she always thought that too.

Attorney Doll stated what they would do is adopt this by County Ordinance as the definition of tract and/or parcel.

Mr. Weisheit stated years ago he did not think you could combine it back. He stated once it was split it was split, but then some years ago they start letting them because there would be houses built over two lots.

Mr. Gentry stated that made sense.



Attorney Doll stated he is not suggesting to them that it is deceptive or deceiving or that they are doing it to snooker the County. He stated there were reasons. He stated the Board does not have to act on it tonight but it is a problem that they have seen twice and will see more and more.

Mrs. Rector stated the Commission can initiate it or the County Commissioners can. She stated she thinks they should just do it.

Mr. Gentry made a motion to define the term Tract and/or Parcel and presented to the County Commissioners.

The motion was seconded by Larry Willis and unanimously carried.

**6. Discussion of Parcelization:**

**a. Can a Parcelization be done in a recorded Minor Subdivision?**

Attorney Doll stated there had been a Minor Subdivision done a few years ago and now they want to further subdivide.

Mrs. Rector stated it had not been 12 months and they wanted to do a parcelization because it could be done within a calendar year.

Attorney Doll stated so it got them thinking about whether they would be allowed in a recorded subdivision. He stated the idea for parcelization was to give to son or daughter a building site or something of that sort. He stated that way they wouldn't have to through a subdivision, wouldn't have to pay \$6,000 to have the property surveyed, and they could have it all done fairly inexpensively. He then asked the Board is they wanted to allow parcelization in any type of subdivision. He stated if it is in a subdivision, minor or major, it needs to be a replat or modification.

Mrs. Rector stated in a recorded major subdivision they do what they call a lot line adjustment. She stated she thinks if it is in a minor subdivision it needs to be an amended minor subdivision.

Mr. Willis stated he agrees.

Guy Gentry made a motion to not allow parcelization in subdivisions.

The motion was seconded by Brad Overton and unanimously carried.

**b. Calendar Year to 12 Month Period**

Attorney Doll stated in the Subdivision Control Ordinance under the Parcelization Subsection (a) with a calendar year. He stated that really is a problem and those were his words. He stated they need to be 12 months because if a company comes in in December and wants to parcelize and they approve it and then comes back in January and say I want to parcelize again, they can right now. He stated it needs to match the Minor Subdivision and it does say within 12 months. He stated the goal is not to allow someone to repetitively cut up a piece of property every other month.

Brad Overton made a motion to change the terminology from calendar year to 12 month period.

The motion was seconded by Marlin Weisheit and unanimously carried.

**c. Parcelization zoning classifications**

Attorney Doll stated what they need to they will do is say that Parcelizations can only be done in "A" and "CON" zonings only.

Mrs. Rector stated that is what she thinks. She stated it doesn't say that they can't do that in an industrial site.

Attorney Doll stated he does not think you want them to be able to do that.

Mrs. Rector stated her recommendation would be to allow it in the "A" Agriculture and "CON" Recreation and Conservancy zoning districts only.

Mr. Weisheit stated that keeps it simpler.

Attorney Doll stated it keeps it to its purpose.

Staff asked about including the "M-2" for the mining.

Attorney Doll stated they changed the Special Use mineral extraction to be allowed in an "M-2".

Mrs. Rector stated if they are going to do (b) the twenty-five acres or more because they don't want to come to the County Commissioner's, there is not going to be 100's of acres zoned "M-2".

Attorney Doll stated they did that because the ground was owned by Alcoa and all the sudden Alcoa realized there was coal under it and they wanted it and the only option was to rezone it or change the ordinance to allow mining in an "M-2" which is what they did.

Mrs. Rector stated if they want to parcelize "M-2" property they will need to rezone it.

Mike Moesner made a motion to limit parcelization to be done in "A" Agriculture and "CON" Recreation and Conservancy zoning district.

The motion was seconded by Brad Overton and unanimously carried.

**ATTORNEY BUSINESS:** None

**EXECUTIVE DIRECTOR BUSINESS:** None

Being no further business, the meeting adjourned at 7:35 p.m.

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Guy Gentry, President

ATTEST: The undersigned Secretary of the Warrick County Area Plan Commission does hereby certify the above and foregoing is a full and complete record of the Minutes of said Board at their monthly meeting held March 14, 2011.

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Sherri Rector, Executive Director